

**FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579**

IN THE MATTER OF THE CLAIM OF

BEATRICE COLEMAN

LUTHER COLEMAN;

ISLE OF PINES UNITED LAND COMPANIES

Claim No. CU-2504

Claim No. ~~CU-2508~~

Decision No. CU 6802

**Under the International Claims Settlement
Act of 1949, as amended**

PROPOSED DECISION

These claims against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, were presented by BEATRICE COLEMAN and LUTHER COLEMAN, in the amounts of \$417,846.00 and \$1,399,945.00, respectively, based upon the asserted loss of real and personal property. Claimants have been nationals of the United States since birth.

A portion of the claim is based upon the loss of land owned by the ISLE OF PINES UNITED LAND COMPANIES. The record shows that BEATRICE COLEMAN and LUTHER COLEMAN were the owners of all the outstanding stock of that company, a corporation organized under the laws of the State of Iowa. Section 505(a) of the Act provides that claims based upon an ownership interest in a corporation which is a national of the United States shall not be considered. The Commission finds that the ISLE OF PINES UNITED LAND COMPANIES, being wholly owned by stockholders who are United States nationals, qualifies as a national of the United States under the Act and is therefore the proper claimant before the Commission for the losses of the corporation. Accordingly, the ISLE OF PINES UNITED LAND COMPANIES has been included in this claim as party claimant.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act

provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term "property" means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

The claim is asserted for the loss of the following property:

- (1) Land and improvements owned by the Insular Development Company (Compania de Fomento Insular), a corporation organized under Cuban law;
- (2) Land owned by ISLE OF PINES UNITED LAND COMPANIES;
- (3) Land and improvements owned by BEATRICE COLEMAN and LUTHER COLEMAN;
- (4) A one-half interest in land originally owned by Alvah Smith McClain;
- (5) A one-half interest in land originally owned by Otilie Schultz;
- (6) A one-half interest in land originally owned by John Irvine Anderson;
- (7) Land originally owned by Thomas J. Keenan;
- (8) Land originally owned by Warren B. Thomas;
- (9) Land originally owned by Delzell Green;
- (10) Land originally owned by Christine Cameron Wall (married) Barrows;
- (11) Loss of the real estate business enterprise;
- (12) Personal property (furniture, furnishing, household goods and the like).

The various items of the claim will be discussed under separate headings below.

(1) Insular Development Company

Claimants state that the Insular Development Company (Compania de Fomento Insular), a corporation organized under the laws of Cuba, owned the following property on the Isle of Pines:

- (a) Land designated as Section 18 of the Hacienda de Santa Fe (Santa Fe Estate);
- (b) Land with improvements thereon designated as Fraction of Manzana (block) 134 in the town of Santa Fe;
- (c) Land designated as Fraction of Manzana 162 in the town of Santa Fe;
- (d) 2 lots designated 129 and 130, about 1 mile west of the town of Nueva Gerona

Claimants BEATRICE COLEMAN and LUTHER COLEMAN further state that they were the owners of all the outstanding capital stock of the Insular Development Company.

The Commission finds that the Insular Development Company was organized under the laws of Cuba in 1958, and that LUTHER COLEMAN was the ostensible owner of all of the outstanding stock of the company. However, under the community property laws of Cuba, property acquired during the marriage by one or both spouses from the funds of the marriage partnership, or from the industry, salary or work of either of the spouses, or the fruits thereof, belongs in equal parts to both spouses (see Claim of Robert L. Cheaney and Marjorie L. Cheaney, Claim No. CU-0915). The Commission, therefore, concludes that the entire capital stock of the Insular Development Company was owned by LUTHER COLEMAN and BEATRICE COLEMAN in equal shares.

Since the aforesaid corporation was organized under the laws of Cuba, it does not qualify as a corporate "national of the United States" defined under Section 502(1)(B) of the Act as a corporation or legal entity organized under the laws of the United States, or any State, the District of Columbia, or the Commonwealth of Puerto Rico, whose ownership is vested to the extent of 50 percent or more in natural persons who are citizens of the United States. In this type of situation, it has been held that an American stockholder

is entitled to file a claim for the value of his ownership interest (see Claim of Parke, Davis & Company, Claim No. CU-0180, 1967 FCSC Ann. Rep. 33).

The Commission records disclose that on September 30, 1958, the Insular Development Company purchased from the ISLE OF PINES UNITED LAND COMPANIES a piece of real property described as Fractional Manzana (block) No. 134 of the Urban Section of the Hacienda Santa Fe, measuring 7,958 square meters, improved with a house of solid masonry construction and a garage, and that this property was used as the residence of LUTHER COLEMAN and his family in Santa Fe.

No evidence of probative value has been submitted to show that the Insular Development Company owned land designated as Section 18 of the Hacienda Santa Fe or the lots numbered 129 and 130 west of Nueva Gerona. The claims for these two property items are therefore denied.

The record shows that the land known as Fraction of Manzana 162 was owned by the ISLE OF PINES UNITED LAND COMPANIES, and the portion of the claim based upon this land will be discussed below.

The shares of stock of the Insular Development Company were subject to Cuban Law 989 published in the Official Gazette of December 6, 1961, which effected confiscation of all goods, chattels, rights, shares, stock, bonds and other property of persons who left Cuba. LUTHER COLEMAN left Cuba in January 1961, and the Commission concludes that the shares of stock owned by him were taken by the Government of Cuba on December 6, 1961. (See Claim of Wallace and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

The value of the shares of stock remains to be determined. The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value, or cost of replacement.

The question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant". This phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

It appears that the only asset of the Insular Development Company was the Fraction of Manzana 134 with the house thereon, and that there were no liabilities. The property was located in a residential section of the town of Santa Fe. Based upon the value of homesites in the town of Santa Fe, the Commission finds that at the time of loss the land, measuring 7,958 square meters, together with the house, had an aggregate value of \$32,000.00, and that the Insular Development Company, owned by LUTHER COLEMAN and BEATRICE COLEMAN had this same value. Accordingly, the Commission holds that in connection with the Insular Development Company LUTHER COLEMAN suffered a loss of \$16,000.00 and BEATRICE COLEMAN also suffered a loss of \$16,000.00.

(2) ISLE OF PINES UNITED LAND COMPANIES

The record shows that in 1956 LUTHER COLEMAN acquired all the outstanding shares of stock of ISLE OF PINES UNITED LAND COMPANIES, a corporation organized under the laws of the State of Iowa. Inasmuch as the Commission has concluded that ISLE OF PINES UNITED LAND COMPANIES is the proper claimant for the losses sustained by the actions of the Government of Cuba, the claims of stockholders of American corporations cannot be considered here. The Commission has been informed that the charter of the corporation has expired, but it appears that its corporate existence can be revived by the stockholders who are entitled to wind up the affairs of the corporation.

The claim is predicated upon the loss of about 200 acres of rural property and 100 building lots in the town of Santa Fe. The record before the Commission indicates that in 1960 the ISLE OF PINES UNITED LAND COMPANIES was the owner of the following properties:

- (a) Fraction of Manzana (block) 162 of the Urban Development of the Hacienda Santa Fe, consisting of a building lot in the town of Santa Fe, measuring 8,643 square meters;
- (b) Manzanas (blocks) 163 and 180 of the Urban Development of the Hacienda Santa Fe, consisting of two building lots of an aggregate area of 11,562 square meters;
- (c) Manzanas (blocks) 32, 33, 34, 35, 36, 57, 58, 59, 60, 62, 81, 82, 83, 84, 85, 86 and lots Nos. 1, 2, 3, 4, 5, 6 and 8 of Manzana 61 of the Urban Development of the Hacienda Santa Fe, within the boundaries of the town of Santa Fe, covering a total area of 252,688 square meters;
- (d) Lot designated Calzada (Highway) 30 of Section 27, of the Rural Development of Hacienda Santa Fe, situated on the highway Santa Fe - Jucaro, measuring 10 acres;
- (e) United fractional lots 9 and 10 of Section 19 of the Rural Development of Hacienda Santa Fe measuring 28.32 acres;
- (f) A one-fourth southwestern part of lot No. 8 of Section 19 of the Rural Development of Hacienda Santa Fe, measuring 10 acres;
- (g) Plot east of lot 11 of Section 18 of the Rural Development of Hacienda Santa Fe measuring 20 acres.

Considering the record and information in other claims based on Isle of Pines properties area, the Commission finds that the above properties were taken by the Government of Cuba on October 15, 1960, pursuant to the provisions of the Agrarian Reform Law. (See Claim of Louis Suskin, Claim No. CU-3527.)

Applying the principles of valuation adopted above, the Commission finds that the urban lots in Santa Fe having an aggregate area of 272,893 square meters, at the time of taking had a value of \$409,340.00, and the rural lots of an aggregate area of 68.32 acres had a value of \$13,664.00. Accordingly, the total loss sustained by ISLE OF PINES UNITED LAND COMPANIES as a result of actions by the Cuban Government is \$423,004.00.

With respect to the claim for the loss of the remainder of the land, the Commission finds that this land was subject to sales for unpaid taxes and then

transferred to third persons between 1940 and 1955. Claimants state that the tax sales were illegal and void and that the properties could have been recovered, but that the actions of the Cuban Government in 1959 and 1960 prevented the completion of the recovery.

It appears that pursuant to Cuban law, under certain conditions and after payment of taxes and expenses, recovery of property sold at public auction for tax debts may have been possible. The Commission, however, holds that title after the sale passed to the new owner, and did not remain in the former owner. If the former owner were to request that the property be returned, and if such request were approved by the local authorities, title would revert to the former owner. Meanwhile, however, the former owner had no title to the property.

The Commission finds it unnecessary to determine the validity of local tax proceedings. The asserted invalid sales occurred between 1940 and 1955 prior to the statutory date of January 1, 1959, and therefore are outside the scope of Title V of the Act.

The claim for properties lost as a result of tax sales, and which were not recovered, is therefore denied.

(3) Land owned by LUTHER COLEMAN and BEATRICE COLEMAN

The record shows that LUTHER COLEMAN owned a plot described as southern part of Manzana 132 of the Urban Development of the Hacienda Santa Fe, consisting of land parcels 5, 6, 7, 8 and 9 measuring together 8,918.40 square meters.

The record further shows that on May 30, 1958, LUTHER COLEMAN acquired by purchase, land with improvements thereon, known as "Finca Marlita", consisting of lots 4, 5, 12 and 13 of Section 5 and of part of lot 16 of Section 4 of the Development Ceiba, situated on the road from Santa Fe to San Pedro. The property had an area of 170 acres with an old, dilapidated house thereon. LUTHER COLEMAN retained possession of this farm until it was taken by the Government of Cuba under the provisions of the Agrarian Reform Law on October 15, 1960.

Adopting the previously-described principles of valuation, the Commission finds that at the time of taking the land parcels in Santa Fe had a value of \$13,377.00, and the "Finca Marlita," had a value of \$8,500.00, or together \$21,877.00.

Considering the community property law of Cuba, the Commission concludes that for the property items discussed here LUTHER COLEMAN suffered a loss of \$10,938.50 and BEATRICE COLEMAN a loss of \$10,938.50.

(4) Land originally owned by Alvah Smith McClain

A claim is asserted for the loss of a one-half interest in land described as follows:

Lots 5 through 12 of Section 19
Parts of lot 22 and lots 25 through 28 of Section 20
Lot 32 of Section 21
Lots 1, 2, 13 through 16 of Section 22

of an aggregate area of 320 acres in a development known as Reparto Hacienda San Francisco de las Piedras, on the Isle of Pines. It is further asserted that this property was originally owned by Alvah Smith McClain; and upon his death in 1939 by his widow Eva Nora McClain; and upon her death in 1956 by Minnie Garside; and upon her death in 1960 by Ruth Ann Hemmeter pursuant to the Last Will of Minnie Garside. Claimants state and the record shows that in 1958 Minnie Garside conveyed and assigned a one-half interest in the land to LUTHER COLEMAN. Claimants further state that this land was taken by the Government of Cuba by Decree No. 1965 published in the Official Gazette on February 29, 1960, or by some earlier action of the Cuban Government.

The evidence submitted by the claimants does not substantiate that this property was owned by the successors of Alvah Smith McClain at the asserted time of taking; the evidence merely infers that the property described above was subject to forced sales for unpaid taxes between 1944 and 1958.

For the reasons stated under (2) the Commission holds that title to property sold at public auction for a tax debt passed to the new owner. Although the former owner could petition for recovery, the evidence in this case does not disclose that such recovery proceedings were instituted, or, if instituted, that they were successfully completed.

In the absence of evidence to show that the above property formerly owned by Alvah Smith McClain was recovered by his successors or by LUTHER COLEMAN, this portion of the claim must be and it is hereby denied.

(5) Land originally owned by Ottilie Schultz

A claim is asserted for the loss of a one-half interest in the following properties originally owned by Ottilie Schultz; and upon her death by her daughter Mamie Cook; and upon the death of Mamie Cook, by her daughter Alberta Scribner:

- (a) Landed estate known as Celeste Esperanza and Santa Isabel tracts of an area of approximately 1,187 acres;
- (b) Landed estate known as Cayo Bonito, of an area of approximately 286 acres;
- (c) Two land parcels of 10 acres each on the Calzada (Highway) to Santa Fe.

The evidence contains a statement signed by Mamie Cook dated April 21, 1967, in which she declares that she had conveyed to LUTHER COLEMAN a one-half interest in her rights and title to the landed estates on the Isle of Pines.

With respect to the lots mentioned above under (c), consisting of two land parcels on the Highway to Santa Fe, none could be identified as having been owned by Ottilie Schultz, inasmuch as the ownership of these lots has not been substantiated by appropriate evidence.

With respect to the property described above under (a) the record reveals that on January 6, 1951 the Celeste Esperanza and Santa Isabel tracts, then jointly owned by the heirs of Ottilie Schultz and the heirs of John Irvine Anderson, were placed on sale at public auction by the Municipality of the Isle of Pines for unpaid municipal taxes; that the properties were sold and acquired by one Julio Cagigas Garcia who organized a corporation by the name of Agro-Pecuaría San Juan S.A.; that title to these properties was then transferred to the said corporation; and that by Resolution No. 3 of 1959 of the Cuban Ministry of Finance the entire property of Agro-Pecuaría San Juan S.A. was confiscated and transferred to the Cuban State.

With respect to the property described above under (b) the record discloses that on June 8, 1951, the property known as Cayo Bonito, owned by the heirs of Otilie Schultz was placed on sale at public auction by the Municipality of the Isle of Pines for unpaid municipal taxes; that the property was sold and acquired by one Walter Benjamin Bowden, who, in turn, sold the property to Elsie Janet Lambertsen; subsequently the property was acquired by the Cayo Bonito Development Company, Inc., and in 1960 the entire property was nationalized by the Government of Cuba.

For the reasons stated, the Commission holds that title to these properties passed to the new owners, and that the successors of Otilie Schultz had merely the right to petition for recovery. There is evidence in the record that such recovery proceedings were instituted after 1958, but they became moot when the properties were confiscated and nationalized by the Government of Cuba.

In the absence of evidence to show that the successors of Otilie Schultz owned the properties upon which this portion of the claim is based, at the time of taking in 1959 and 1960, and for the reasons set forth above, this portion of the claim is also denied.

(6) Land originally owned by John I. Anderson

This portion of the claim is asserted for the loss of a one-half interest in the following properties, originally owned by John Irvine Anderson who died in 1933:

- (a) Landed estate known as Celeste Esperanza and Santa Isabel tracts, measuring 647 acres;
- (b) A one-half interest in land on McKinley Road, one mile from the town of Nueva Gerona, measuring 66.26 acres;
- (c) Two land parcels, described as lots 1 and 2 of Section 20 of the Hacienda San Juan, measuring 38.10 and 40 acres, respectively; and
- (d) A one-half interest in land not further identified measuring 73.4 and 36.7 acres, respectively.

The record contains documentation which shows that Nelson E. Anderson and Mary Margaret Miller, the successors of John Irvine Anderson, conveyed

and assigned all of their property interests which they had on the Isle of Pines to LUTHER COLEMAN or to persons designated by him.

The landed estate known as Celeste Esperanza and Santa Isabel tracts, jointly owned by Ottilie Schultz and John I. Anderson, were discussed above under (5).

With respect to the other properties, the evidence discloses that they were sold at public auction for unpaid taxes by the Municipality of the Isle of Pines as follows:

The land on McKinley Road (jointly owned with Theodore Chabot) on June 27, 1952;

Land parcels 1 and 2 of Section 20 on June 27, 1955; and

Land measuring 73.4 acres in San Pedro (jointly owned with John A. Miller) on November 15, 1956

There is no evidence of record that John I. Anderson owned a land parcel measuring 36.7 acres.

In the absence of evidence to show that the above property formerly owned by John I. Anderson was recovered by his successors or by LUTHER COLEMAN, and for the reasons already stated this portion of the claim must be and it is also denied.

(7) Land originally owned by Thomas J. Keenan

This portion of the claim is asserted for the loss of approximately 38 Cuban caballerias or 1,267 acres of land near Nueva Gerona, originally owned by Thomas J. Keenan.

The record shows that on April 13, 1957, Mary Doris Keenan sold to LUTHER COLEMAN any property on the Isle of Pines in which she may have had an interest as sole heir of her parents Thomas J. Keenan and Lovinia V. Keenan.

The record further shows that Thomas J. Keenan owned on the Isle of Pines the following properties:

(a) Lots 85, 87, 88 and 94 known as Hacienda Nuestra Senora de la Merced, or "La Merced" in an area designated as Colonia Reina Amalia, in the locality Sierra de Caballos, measuring 20 Cuban caballerias or approximately 663 acres;

(b) Estate known as "Los Guanabos" consisting of lot 132 in the Colonia Reina Amalia, measuring 16 Cuban caballerias or 531 acres; and

(c) Part of lot 91 in the aforementioned Colonia Reina Amalia, measuring 2 Cuban caballerias or 66 acres.

The record further shows that property (a) was sold at public auction by the Municipality of the Isle of Pines on April 19, 1956, property (b) on April 10, 1954, and property (c) on August 29, 1953.

No evidence has been submitted to show that the successors of Thomas J. Keenan or LUTHER COLEMAN obtained recovery of any property described above. In the absence of such evidence and for the reasons already stated this portion of the claim is also denied.

(8) Land originally owned by Warren B. Thomas

This portion of the claim is based upon an estate known as Hacienda "La Esperanza", located in the area of San Antonio de los Indios, measuring 1,252.84 acres. It is also known as the so-called "goldmine property". The record shows that this property was sold at public auction for unpaid taxes by the Municipality of the Isle of Pines on October 25, 1955; that on November 17, 1956, Byron E. Thomas, Individually and as Administrator of the Estate of Warren B. Thomas, deceased, appointed LUTHER COLEMAN attorney for the estate for the purpose of recovering the property; on the same day he conveyed and assigned the estate's interests in the property on the Isle of Pines to LUTHER COLEMAN; and on January 9, 1957, the residuary legatees under the Will of Katharine S. Thomas, deceased, widow of Warren B. Thomas, conveyed their interests in the property on the Isle of Pines to LUTHER COLEMAN.

The record further shows that on May 21, 1957, the Court of First Instance of the Judicial District of the Isle of Pines ordered that the purchaser of the property in question, issue a deed of retransfer to LUTHER COLEMAN, attorney for the Estate of Warren B. Thomas, deceased, pursuant to a judgment of recovery issued by that court on the same date; otherwise the Court would issue such deed of recovery to LUTHER COLEMAN in open court on June 6, 1957. The evidence further shows that LUTHER COLEMAN obtained such

deed of recovery and the Commission finds that he was the owner of the tract known as "La Esperanza" on October 15, 1960, the date the property was confiscated under the provisions of the Cuban Law on Agrarian Reform.

The Commission further finds that the value of this tract measuring 1,252.84 acres, situated in a somewhat more remote part of the island, was \$125,284.00. The record, however, shows that the land was mortgaged to the Esperanza Land Company for an amount of \$15,692.47. Accordingly the Commission therefore finds that the value of the equity in the property, at the time of taking, was \$109,591.53.

Considering the community property law of Cuba, the Commission concludes that LUTHER COLEMAN suffered a loss of \$54,795.77, and BEATRICE COLEMAN suffered a loss in the amount of \$54,795.77.

(9) Land originally owned by Delzell Green

A claim is asserted for the loss of land, originally owned by Delzell Green, consisting of

- (a) 40 acres of the Santa Fe tract;
- (b) 10 acres along the Highway Jucaro - Santa Fe; and
- (c) land otherwise unspecified in Nueva Gerona.

The record shows that Delzell Green was the owner of land described as Finca No. 2481, southern portion of lot No. 16 of Section 13 of the Rural Development of Santa Fe measuring 22 acres. The record further shows that Delzell Green sold this lot, and some other property, to LUTHER COLEMAN on August 4, 1958.

With respect to the other property, the record indicates that 50 acres of land, formerly owned by Delzell Green were sold at public auction for unpaid taxes by the Municipality of the Isle of Pines on November 1 and November 2, 1955.

The Commission finds that the land described as Finca No. 2481 in the area of Santa Fe was taken by the Government of Cuba on October 15, 1960 under the provisions of the Law on Agrarian Reform.

The Commission further finds, based upon the principles set forth previously, that Finca No. 2481, at the time of taking was worth \$4,400.00. Considering the community property law of Cuba, LUTHER COLEMAN suffered a loss of \$2,200.00, and BEATRICE COLEMAN also suffered a loss in the amount of \$2,200.00.

For the reasons already stated, the claim for the property sold at public auction and not recovered prior to the taking by the Cuban Government, is denied.

(10) Property originally owned by
Christine Cameron Wall

The record shows that Christine Cameron Wall (married) Barrows, owned real property designated as lot No. 16 of Section 21 of the Rural Development of Santa Fe, of an area of 40 acres. A power of attorney dated October 10, 1956, authorized LUTHER COLEMAN to sell and convey her property to third persons and to himself, but no evidence has been submitted to show that LUTHER COLEMAN executed a deed and conveyed the property to himself, as asserted in the claim. It is alleged that Christine Cameron Barrows executed a quit-claim deed to LUTHER COLEMAN and transferred the property to him, but no such document was presented, nor is it on record in the files.

In view of the foregoing, the Commission holds that claimants have failed to establish that LUTHER COLEMAN obtained title to the land in question and that he was the owner of the property at the time of its taking by the Government of Cuba. Accordingly, this portion of the claim is also denied.

(11) Business loss

Claimants state that LUTHER COLEMAN suffered a business loss of \$450,000 because he was prevented by the Cuban Government from continuing to conduct his real estate business on the Isle of Pines and that had he not been prevented, he would have earned in due course \$450,000.00.

The Commission finds that this portion of the claim is for prospective earnings and anticipated profits which might have been realized had the Cuban

Government not introduced legislation which made real transactions practically impossible. However, claims based on loss of prospective earnings are generally not allowed under international law.

Edwin M. Borchard discusses this matter in his recognized treatise entitled "Diplomatic Protection of Citizens Abroad". In Section 172 thereof, Mr. Borchard cites the historic "Alabama Arbitration", and goes on to say:

"This award (in the Alabama case), including the finding that 'prospective earnings cannot properly be made the subject of compensation, inasmuch as they depend in their nature upon future and uncertain contingencies,' has been regarded as a reliable precedent by numerous other arbitral tribunals, which have disallowed indirect claims based upon loss of anticipated profits, loss of credit, and similarly consequential elements of loss."

"Acts of Congress authorizing domestic commissions to distribute international awards have followed the general rule excluding anticipated profits and indirect losses from consideration as elements of damage. *** Domestic commissions have reached the same conclusion without specific direction from Congress."

(See Claim of Metro-Goldwyn-Mayer, Inc. Claim No. CU-2225.)

The Commission finds that the portion of the instant claim based upon business losses is, in fact, a claim for losses of prospective profits, and that such claim is not compensable under the Act. Accordingly, this portion of the claim is also denied.

(12) Personal property

A portion of this claim is asserted for the loss of personal property, such as furniture, household goods, a typewriter, kitchen utensils, tools, firearms, a coin and stamp collection, and for cattle.

The Commission records show that the coin and stamp collections were not taken by the Government of Cuba. The remainder of personal property was subject to Law 989 (supra). Since BEATRICE COLEMAN remained in Cuba until December 29, 1966, when she left for the United States, the Commission finds that the personal property to which reference is made above, was taken by the Government of Cuba on December 29, 1966.

On the basis of the record, the Commission finds that at the time of taking, the personal property had a value of \$5,000.00. Considering the

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principles of the Cuban community property law, the Commission concludes that LUTHER COLEMAN suffered a loss of personal property in the amount of \$2,500.00 and BEATRICE COLEMAN suffered a loss in the amount of \$2,500.00.

Recapitulation

The losses are summarized as follows:

BEATRICE COLEMAN

<u>Property</u>	<u>Date of Loss</u>	<u>Amount</u>
Insular Development Co. House and land in Santa Fe and "Finca Marlita"	December 6, 1961	\$16,000.00
Warren B. Thomas' land	October 15, 1960	10,938.50
Delzell Green's land	October 15, 1960	54,795.77
Personal property	October 15, 1960	2,200.00
	December 29, 1966	<u>2,500.00</u>
		\$86,434.27

LUTHER COLEMAN

Insular Development Co. House and land in Santa Fe and "Finca Marlita"	December 6, 1961	\$16,000.00
Warren B. Thomas' land	October 15, 1960	10,938.50
Delzell Green's land	October 15, 1960	54,795.77
Personal property	October 15, 1960	2,200.00
	December 29, 1966	<u>2,500.00</u>
		\$86,434.27

ISLE OF PINES UNITED LAND COMPANIES

Land in Santa Fe and vicinity	October 15, 1960	\$423,004.00
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The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644) and in the instant case it is so ordered as follows:

FROM

ON

BEATRICE COLEMAN

October 15, 1960	\$67,934.27
December 6, 1961	16,000.00
December 29, 1966	<u>2,500.00</u>
	\$86,434.27

<u>FROM</u>	<u>ON</u>
<u>LUTHER COLEMAN</u>	
October 15, 1960	\$67,934.27
December 6, 1961	16,000.00
December 29, 1966	<u>2,500.00</u>
	\$86,434.27

<u>ISLE OF PINES UNITED LAND COMPANIES</u>	
October 15, 1960	\$423,004.00

CERTIFICATIONS OF LOSS


The Commission certifies that BEATRICE COLEMAN suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Eighty-Six Thousand Four Hundred Thirty-Four Dollars and Twenty-Seven Cents (\$86,434.27) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement;

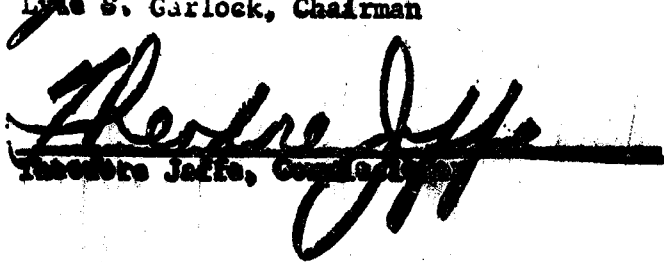
The Commission certifies that LUTHER COLEMAN suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Eighty-Six Thousand Four Hundred Thirty-Four Dollars and Twenty-Seven Cents (\$86,434.27) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement; and

The Commission certifies that ISLE OF PINES UNITED LAND COMPANIES suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Four Hundred Twenty-Three Thousand Four Dollars (\$423,004.00) with interest thereon at 6% per annum from October 15, 1960, to the date of settlement.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

SEP 1 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended (1970).)

CU- 2504
CITE 2508